

## **CHAPTER 20.65**

### **HEIGHT LIMITS**

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#### **20.65.010 Purpose**

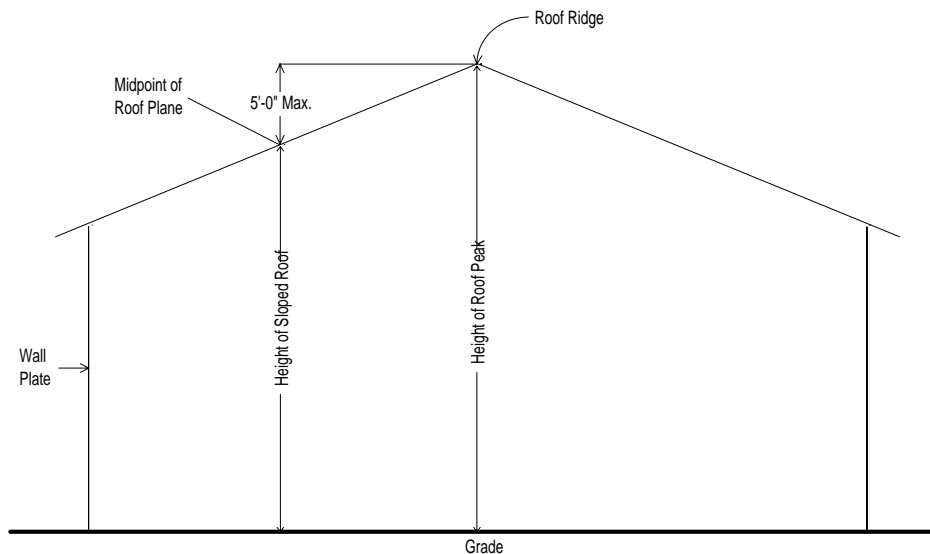
- A. This chapter establishes regulations on the height of buildings throughout the City in order to ensure that the unique character and scale of Newport Beach is preserved.
- B. This chapter creates 5 height limitation zones which govern building height but allow design flexibility with City review.
- C. These regulations shall be reviewed and revised as necessary.

#### **20.65.020 Effect of Chapter**

All sections of this code shall be subject to the provisions of this chapter.

#### **20.65.030 Measurement of Height**

- A. Height of Structure. The height of a structure shall be the vertical distance between the highest point of the structure and the grade directly below. In determining the height of a sloped roof, the measurement shall be the vertical distance between the grade and the midpoint of the roof plane, as measured from the ridge of the roof to where the wall plate intersects the roof plane, provided that no part of the roof shall extend more than 5 feet above the permitted height in the height limitation zone.



- B. Grade. For the purpose of measuring height, the grade shall be the unaltered natural vertical location of the ground surface unless one of the following applies:
1. At the time of subdivision, the City has approved a grading plan or map, under which circumstances grade shall be finished grade as shown on the plan or map so approved. For sites that were developed without or prior to the requirement for a grading plan or map, the Planning Department shall exercise its best efforts to determine the location of grade for the purpose of measuring height. In so doing, the Planning Department shall use existing on-site elevations and contours, as well as the elevations and contours of adjoining and nearby properties to determine the natural profile of the site. In cases where retaining walls have been constructed or filled surfaces have been used for the purpose of measuring height prior to October 12, 1972, the finished grade established in conjunction with the filled condition shall be used for the measurement of height. Under no circumstances shall height be measured from excavated surfaces such as basements and wine cellars which have been used to artificially lower the ground surface.
  2. Flood Hazard Areas. The height shall be measured from the finished floor of any portion of the principal building where habitable space is required to be elevated to the elevation established by the Flood Insurance Rate Maps recognized by the Building Department as part of flood safety requirements and maps adopted by City Council. Notwithstanding the building elevations established by the Flood Insurance Rate Maps, the minimum required first floor finished floor elevation for the interior living areas of all new structures shall be at least 8.67 (NAVD 88) consistent with the Public Works Department standard for bulkhead elevation.
  3. Establishment of Grade. In a case where natural grade or finished grade as referred to herein is, in the judgement of the Planning Commission, inappropriate or unworkable for the purpose of measuring height, the Planning Commission shall establish grade in such a way to insure that the intent or purpose of this chapter is fulfilled. The establishment of grade by

the Planning Commission shall require the approval of a site plan review which shall be obtained in accordance with Chapter 20.92.

In order to establish grade, the Planning Commission shall make the following findings in addition to those required by Chapter 20.92:

- a. That the proposed grade being requested by the applicant is reasonable and comparable with the grades of surrounding properties and that the establishment of such grade will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.
- b. That the proposed grade and related development will not result in the loss of any public views and shall be consistent with the existing character of the neighborhood in which the project is located.
- c. That the existing grade on the subject property, is inappropriate and unworkable for the purpose of measuring height.
- d. That the proposed grade being requested by the applicant is necessary for the preservation and enjoyment of substantial property rights of the applicant.

#### **20.65.040 Height Limitation Zones**

In addition to the development standards established in the various districts, there shall be 5 height limitation zones within the City. The designations, locations, and boundaries of these height limitation zones shall be as shown on the "Height Limitation Zones" map, incorporated herein and made a part hereof by this reference. In each height limitation zone the maximum permitted height shall be measured in accordance with the definitions contained in this chapter.

- A. 24/28 Foot Height Limitation Zone. In the 24/28 Foot Height Limitation Zone the height limit for any structure shall be 24 feet; provided, however, that a structure may exceed 24 feet up to a maximum of 28 feet through the adoption of a planned community district, or through the adoption of a specific plan, or through the approval of a use permit. This height limitation zone shall apply to all R-1, R-1.5, R-2, and OS Districts.
- B. 28/32 Foot Height Limitation Zone. In the 28/32 Foot Height Limitation Zone the maximum height limit shall be 28 feet; provided, however, that structures may exceed 28 feet up to a maximum of 32 feet in an adopted planned community district, or through the adoption of a specific plan, or through the approval of a use permit. This height limitation zone shall apply to all MFR and RMD Districts.
- C. 26/35 Foot Height Limitation Zone. In the 26/35 Foot Height Limitation Zone the

height limit shall be 26 feet; provided, however, that a structure may exceed 26 feet up to a maximum of 35 feet through the adoption of a planned community district, or through the adoption of a specific plan, or through the approval of a use permit. This height limitation zone shall apply to all zoning districts, other than R-1, R-1.5, R-2, MFR, RMD and OS Districts, within the area known as the Shoreline Height Limitation Zone established by Ordinance 92-3 and shown on the Height Limitation Zones map.

- D. 32/50 Foot Height Limitation Zone. In the 32/50 Foot Height Limitation Zone the height limit for any structure shall be 32 feet; provided, however, that a structure may exceed 32 feet up to a maximum of 50 feet through the adoption of a planned community district, or through the adoption of a specific plan, or through the approval of a use permit. This height limitation zone shall apply to all zoning districts other than R-1, R-1.5, R-2, MFR, RMD and OS Districts which have boundaries not falling within the area above described as the Shoreline Height Limitation Zone, or within the High-Rise Height Limitation Zone.
- E. High Rise Height Limitation Zone. In the High Rise Height Limitation Zone the height limit for any structure shall not exceed 375 feet.

#### **20.65.050      Planned Community Districts**

In each planned community district established subsequent to the adoption this chapter, the height limits shall be established as part of the planned community development plan; provided, however, that in no event shall the development exceed the height limits permitted in the height limitation zones as set forth under Section 20.65.040 and as designated below:

##### **24/28 FOOT HEIGHT LIMITATION ZONE.**

- 1. Upper Newport Bay Planned Community as established by Ordinance No. 1537 adopted December 17, 1973 (Amendment No. 409).

#### **20.65.055      Required Findings to Exceed Height Limits**

The Planning Commission or City Council in approving any planned community district, any specific plan, or in granting any use permit for structures in excess of the basic height limit in any district shall find that each of the following four points have been complied with:

- A. The increased building height would result in more public visual open space and views than is required by the basic height limit in any zone. Particular attention shall be given to the location of the structure on the lot, the percentage of ground cover, and the treatment of all setback and open areas.
- B. The increased building height would result in a more desirable architectural treatment of the building and a stronger and more appealing visual character of the area than is required by the basic height limit in any zone.

- C. The increased building height would not result in undesirable or abrupt scale relationships being created between the structure and existing developments or public spaces. Particular attention shall be given to the total bulk of the structure including both horizontal and vertical dimensions.
- D. The structure shall have no more floor area than could have been achieved without the use permit.

#### **20.65.060 Existing Structures and Permits**

- A. The use permit application fee shall be waived for any single family home in the R-1 District which is replacing a structure which was in existence on the effective date of this chapter (October 11, 1972).
- B. Structures on the bluff side of Ocean Boulevard in Corona del Mar, which were in existence or under construction on the effective date of this chapter (October 11, 1972) may be changed provided such change does not result in a roof height above top of curb and provided further that the roof height does not exceed the height limit established by the 24/28 Height Limitation Zone. For purposes of this chapter, the top of curb height limitation shall be established by a horizontal plane created by the extension of the top of curb line across each site located on the bluff side of Ocean Boulevard. Where a question arises as to the interpretation of this code, the Planning Director shall review and render a decision. New structures may be constructed on vacant sites subject to the same criteria.

#### **20.65.070 Exceptions to Height Limits**

- A. Architectural Features and Solar Equipment. Architectural features such as, but not limited to, cupolas, weathervanes, open protective railings for stairways, and other decorative roof-top features of an open nature, and solar equipment, but excluding parapet walls, may be permitted in excess of permitted height limits subject to the approval of a modification permit.
- B. Mechanical Equipment and Stairwells. Elevator shafts, enclosed stairwells and screened mechanical equipment, totaling no more than 25 square feet, shall be permitted up to 5 feet in excess of the height limits. Elevator shafts may exceed 25 square feet only when a larger elevator is required by the Building Code and/or Fire Department. In these instances, the area of the elevator shaft shall not exceed the minimum size required by the Building Code and/or Fire Department.
- C. Chimneys and Vents. Chimneys and vents shall be permitted in excess of height limits to the minimum extent required by the Uniform Building Code plus an additional 12 inches for the provision of spark arrestor apparatus or architectural features of a decorative screening nature. Any such structures or features exceeding the Uniform Building Code requirements shall be subject to the following criteria:

1. That the overall dimensions of the chimney shall be limited to a maximum width of 2 feet by a maximum length of 4 feet for any portion of the structure which exceeds the Uniform Building Code requirements.
2. That the allowance for the additional 12 inches shall be solely for the incorporation of a spark arrestor as required by the manufacturer or for the incorporation of an architectural screening or treatment.

All chimneys and vents exceeding the minimum height required by the Uniform Building Code, with the exception of an additional 12 inches for spark arrestor apparatus or architectural features of a decorative screening nature, shall be subject to the approval of a modification permit.

D. Skylights and Roof Windows. The terms skylights and roof windows shall be interchangeable and shall be permitted in excess of the average height permitted in the Height Limitation Zones only as indicated in the following. However, in no case shall any portion of any such skylight or roof window structure exceed the maximum ridge height allowed for any roof in the Height Limitation Zone in which the structure is located. Any such skylight or roof window which is openable shall not be permitted under this section, except those which slide open within the same plane as the frame of the structure, or open to the interior of the building only. Any such structure or feature shall be limited as follows:

1. When mounting on a flat roof structure, the maximum height measured at the highest point of the proposed skylight or roof window, in a plane parallel to the plane of the roof structure, shall not exceed an elevation of 6 inches above the average roof height as provided by the Height Limitation Zone, or 6 inches above the finished surface of a conforming roof structure, whichever is less.
2. When mounting on a sloping roof structure, the maximum height measured at the highest point of the proposed skylight or roof window, in a plane parallel to the plane of the roof structure, shall not exceed an elevation of 6 inches above the finished surface of the conforming roof structure.
3. That in the areas of the City where a Height Limitation Zone is superseded by more restrictive height limitations or by a discretionary approval of the Planning Commission or the City Council, this section shall not be applied.

E. Flag Poles. Flag poles shall be permitted in the 24/28 and the 28/32 Foot Height Limitation Zones not to exceed a height of 35 feet. Flag poles shall be permitted in the 26/35 and the 32/50 Foot Height Limitation Zones not to exceed a height of 50 feet. All other flag poles in excess of the height limits noted above may be permitted subject to the approval of the Planning Commission.

F. Boat Cranes. Boat cranes used in conjunction with an approved marine-oriented use may be permitted to exceed the basic height limit applicable to the district in which it

is located, up to a maximum operating height of 70 feet, subject to the approval of the Planning Commission.

- G. Churches. Church structures used for church purposes shall be exempt from the restrictions of this chapter, except that any such structure exceeding 35 feet in height shall require a use permit.
- H. Landmark Buildings. Any alteration or addition to a Landmark Building (see Section 20.62.065) shall be exempt from the restrictions of this chapter, provided any such structural alteration or addition that exceeds the height of the existing structure shall require a use permit and shall not exceed fifty-five (55) feet. The use permit may be approved only if the following findings are made:
  - 1. The portion of the structural alteration or addition that exceeds the height of the existing building does not significantly impact public views.
  - 2. The portion of the structural alteration or addition that exceeds the height of the existing building will not be used in a manner that increases the intensity of the use of the Landmark Building or the project site.
  - 3. The height of the Landmark Building approved by the use permit will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of the Landmark Building.
- I. Light Standards. Light standards necessary for the illumination of parking lots, athletic fields, and other similar outdoor areas may be permitted in excess of required height limits, subject to the review and approval of a use permit issued by the Planning Director. No light standards shall be approved that will have a negative impact on surrounding properties or a detrimental effect on the health, safety, or general welfare of the community.

This exception shall have no effect on the requirements of Section 20.60.050 (Outdoor Lighting) of this Code. Pursuant to Chapter 20.60.050 light standards in or within 200 feet of a residential district shall continue to require review and approval of a use permit issued by the Planning Commission.

## **20.65.080 Airport Height Limits**

Any project which requires a notice of construction or alteration by the Federal Aviation Administration Regulations Part 77 shall require FAA compliance, and the applicant shall submit a copy of the FAA application to the Airport Land Use Commission (ALUC) and provide the City with FAA and ALUC responses. If the ALUC requests review of the project, then the project shall be submitted to the commission by the City. Commission determination shall be referred to the City within 60 calendar days from the date of referral of the application to the ALUC, and shall be considered before the City takes any action on the project. If the Commission fails to refer the

determination within that period, the proposed project shall be deemed consistent with the Airport Environs Land Use Plan (AELUP).



